

This letter provides a reference to the Department's rules regarding the permanent resident exclusion under the Hotel Operators' Tax. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

December 22, 2005

Dear Xxxxx:

This letter is in response to your letter dated November 28, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Having received your Publication 106 – Allowable Deductions for IDOR – collected Hotel Taxes I have a few questions I hope you can answer.

My situation is that I am a resident of a hotel in Illinois due to a fire at my premises. I have been here for 4 months and probably will not be leaving anytime in the near future.

In your aforementioned literature it states that a 'permanent resident' is a person who has occupied a room for at least 30 consecutive days and that the guest has a legal right to request a refund of taxes paid.

I would like more information with reference to taxes I have paid thus far and any other information you would regard as pertinent.

I can be reached by mail at:

NAME/ADDRESS

Thank you in advance for your assistance and have a nice holiday.

**DEPARTMENT'S RESPONSE:**

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See the enclosed copy of 86 Ill. Adm. Code 480.101. The tax applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. The only exemptions available to a hotel operator are for rentals to permanent residents and to certain diplomatic personnel. Permanent residents are persons who occupy or have the right to occupy such rooms for at least thirty consecutive days. See 86 Ill. Adm. Code 480.101(a)(1).

Please note that the Hotel Operators' Occupation Tax is not a tax imposed upon those guests renting the rooms. Rather, it is imposed upon persons (i.e., hotel operators) engaged in the business of renting, leasing or letting rooms in a hotel. However, hotel operators are allowed to reimburse themselves for their tax liability by collecting a corresponding amount of reimbursement from customers.

The Department does not receive information from hotels regarding specific rentals. The hotels file returns showing the aggregate amount of tax they incur for the preceding month. You may want to take a copy of this letter and the enclosed administrative rule to your hotel and inquire as to whether you have been paying a reimbursement to the hotel for such tax. If a hotel has been paying tax on a nontaxable rental, the hotel can file a claim for credit or refund under the provisions of 86 Ill. Adm. Code 480.125.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
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TDC:msk